Supreme Court, U. S.
FILED
JUL 17 1975
MICHAEL RODAK, JR., CLERK

No. 74-1044

In The Supreme Court of The United States
OCTOBER TERM, 1974

COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; ROBERT Q. CRANE, ANGELO AMATO and J. JOSEPH MALONEY, JR., as They are Members of the COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; JAMES W. CALLANAN, Executive Secretary of the COMMONWEALTH OF MASSACHUSETTS BOARD OF RETIREMENT; and JOHN F. KEHOE, JR., COMMISSIONER OF PUBLIC SAFETY of the COMMONWEALTH OF MASSACHUSETTS,

Appellants,

v.

ROBERT D. MURGIA,

Appellee.

ON APPEAL FROM THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMICUS CURIAE BRIEF OF STATE POLICE ASSOCIATION OF MASSACHUSETTS IN SUPPORT OF APPELLANTS

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PRELIMINARY STATEMENT

Pursuant to Supreme Court Rule 42, consent of the parties having been obtained, the State Police Association of Massachusetts files this Brief as Amicus Curiae in support of the Appellants.

QUESTION PRESENTED

Whether the Massachusetts statute mandating the retirement of a State Police officer upon reaching the age of fifty is constitutional?

STATEMENT OF INTEREST OF STATE POLICE ASSOCIATION OF MASSACHUSETTS

The State Police Association of Massachusetts (hereafter Association) is the certified and recognized collective bargaining agent and representative of and for the 966 members of the Uniformed Branch of the Massachusetts State Police in and holding the ranks of Trooper, Policewoman, Corporal, Sergeant and Staff Sergeant. The total complement of the Uniformed Branch is 1020, of which number 54 are in the ranks of Lieutenant, Captain, Major, Lieutenant Colonel and Deputy Superintendent.

The Association filed an amicus curiae brief in the United States District Court for the District of Massachusetts in support of Appellants.

The Association's interest in the mandatory retirement statute is to maximize the physical capability of members of the Uniformed Branch, to assure increased promotion opportunities, and, thereby, to advance and encourage employee morale and incentive.

STATEMENT OF THE CASE AND JURISDICTION

The Association, as Amicus Curiae, hereby adopts the Statement of the Case of the Appellants, as well as their Statement of Jurisdiction.

ARGUMENT

I. MANDATORY RETIREMENT FOR UNIFORMED STATE POLICE OFFICERS AT AGE 50 (OR AFTER 20 YEARS OF SERVICE, WHICHEVER OCCURS LAST) IS CONSTITUTIONAL BECAUSE IT BEARS A RATIONAL RELATIONSHIP TO THE FURTHERANCE OF A LEGITIMATE STATE PURPOSE.

Members of the Uniformed Branch of the Massachusetts State Police are required to perform their jobs under conditions of physical and mental stress greater than those of state police detectives, municipal police and other public service employees. As a result, Massachusetts, in order to maximize the physical capability of its Uniformed State Police, must maintain a force which is young and vigorous. The challenged statute advances this legitimate state purpose. The medical evidence introduced by both plaintiff and the defendants, in this regard, clearly proves and the district court stated that there is a "general relationship between advancing age and decreasing physical ability to respond to the demands of the job", and is thus supportive of such state purpose. 376 F.Supp. 753 at 755.

Although the district court accepted the need for an arbitrary cut-off which may force the retirement of some individuals who are still fit for duty (376 F.Supp. at 755), it ruled that the 50 year old mandatory retirement age was unconstitutional because there had been no study or determination made that age 50 is a "critical area" requiring such cut-off (376 F.Supp. at 756). In so doing, the district court, in effect, shifted the burden to the defendants to prove the rationality of the challenged statute and ignored medi-

cal evidence submitted by the defendants that age 50 is such a "critical area".

This Court has long held that the test of "rationality" is appropriate in the area of economics and social welfare, *Dandridge* v. *Williams*, 397 U.S. 471 (1970). The right to remain employed, which is the underlying issue presented in this case, properly belongs in the area of economic and social welfare. See *Kotch* v. *Board of River Port Pilot Commissioners*, 330 U.S. 552 (1947). In addition, the plaintiff has the burden of proving that the statutory classification challenged by him lacks rationality, *McGowan* v. *Maryland*, 366 U.S. 420, 426 (1960). In *McGowan*, this Court also noted that the "constitutional safeguard is offended only if the classification rests on grounds wholly irrelevant to the achievement of the State's objective . . ." *Id.* at 425. It does not in this case.

This Court has applied a variation of the rational relationship test in a sex discrimination case challenging a federal statute which required male naval line officers to retire before female officers. *Schlesinger* v. *Ballard*, ... U.S. ...., 43 U.S.L.W. 4158 (1975). In *Schlesinger*, this Court upheld a federal statute which requires men who have been passed over for promotion twice to retire after 10 years of naval service even though women officers are not so required until after 13 years of service. This court examined the statute to determine whether there was an "archaic and overbroad generalization" for achieving administrative convenience and upheld the "complete rationality" of that legislative classification. In addition, and importantly, this Court recognized the validity of a policy creating a flow of promotions to motivate personnel.

An examination of the evidence in this case demonstrates

that plaintiff has failed to satisfy his burden under the rational relationship test. In addition, the evidence supports the constitutionality of *mandatory retirement at age 50* even under the more stringent standard applied in *Schlesinger*.

A. The State has a valid interest in promoting a young and vigorous State Police Force.

Uniformed State Police officers are required to perform arduous and demanding duties. In this regard, the Commissioner of Public Safety has stressed the "physical capability of the uniformed officer" and the need for him to "be able to react swifty and strongly" (App. 54). And he has observed that "younger officers are generally more capable than are older officers in performing physical functions" (App. 55). Such physical capability is affected by stress factors, both physical and mental, implicit in the job and contributed to by the strict discipline and military nature of the State Police, and because they usually work "alone" (App. 57).

Colonel Paul Murphy, the State Police Surgeon, referred to the physical and mental stress factors of the job. When asked for his medical opinion of the mandatory age 50 retirement, he replied that he would prefer retirement of a member of the Uniformed Branch after 20 years of service or age 50, whichever occurs *first* (App. 173). Parenthetically, the retirement system suggested by Colonel Murphy would reduce the age of members of the Uniformed Branch, and mandate earlier retirements than does the challenged statute. Colonel Murphy testified that a 50 year old State Police officer is not physically fit to perform "full duty status" (App. 185). He also testified that higher ranking officers in the Uniformed Branch were more sus-

ceptible to heart disease because of the "additional problems of responsibility" (App. 186-7).

Such higher ranking officers as well as all other members of the Uniformed Branch are required to perform the arduous and demanding duties of the job. As example, the plaintiff, who held the rank of Lieutenant Colonel, was required to lead the troops in all disturbances, (see App. 50). Colonel Murphy, on further examination by plaintiff's counsel, stated that a Lieutenant Colonel would "be required to go into Walpole, inside the prison and engage in hand-to-hand activity" and "would . . . be likely to be driving along Route 495 at 2:00 A.M. in the morning and discover a fatal accident" (App. 189; see also App. 50).

The district court acknowledged that Massachusetts is entitled to maintain rigorous job requirements and that plaintiff did not contend otherwise. 376 F.Supp. at 754.

B. Duties of members of the Uniformed Branch of the State Police differ from those of State Police detectives and municipal police.

The duties of Uniformed State Police officers differ from and are more demanding than those of municipal police.[1] Municipal police officers (and State Police detectives), unlike members of the Uniformed Branch of the State Police, are in the classified civil service system of the Common-

[1] The district court, in a footnote to its decision, stated:

"We assume, at least for present purposes, that the duties are sufficiently more arduous than, or the physical and mental stresses significantly different from those of detectives or policemen in other branches and at other levels of government, so that there is no viable unequal protection claim in this area". 376 F.Supp. at 754 n. 3.

wealth (Mass. Gen. Laws, ch. 31, sec. 20). And unlike members of the Uniformed Branch whose police powers are statewide (Mass. Gen. Laws, ch. 22, sec. 3A), municipal police officers have police powers only within the city or town in which they serve (Mass. Gen. Laws, ch. 41, sec. 98), except when in another city or town in "fresh and continued pursuit" (Mass. Gen. Laws, ch. 41, sec. 98A), or when requested for service in another city or town by its mayor, selectmen or chief of police (Mass. Gen. Laws, ch. 41, sec. 99). The Uniformed Branch and municipal police departments also have distinct operational characteristics. "The Uniformed Branch is a relatively small force designed to cover the entire state. As a result, a state police cruiser is generally manned by only one officer, must cover a wide geographical area and may be as much as thirty minutes away from back-up assistance in case of emergency. On the other hand, a municipal cruiser is generally manned by two officers, must cover a limited geographical area and is generally only a few minutes away from back-up assistance." (App. 57).

Municipal police forces tend to assign administrative duties to older officers. The Uniformed Branch assigns "civilians rather than uniformed officers to administrative duties wherever possible", thereby freeing "more officers for field or patrol duty". For example, the Uniformed Branch employs civilians as radio dispatchers, whereas municipal police departments generally assign uniformed officers to such duty (App. 57-8).

The State Police Surgeon, Colonel Murphy, testified that the duties of members of the Uniformed Branch are "more stressful" than those of municipal police officers. When asked in what ways are the duties of the Uniformed Branch physically stressful, he answered,

"[N]umber one, a State Policeman generally works alone. This is as opposed to most of your municipal Police Departments where they work together. It is a small force covering the entire state as opposed to — if you take the Boston Police Department of approximately 2,100 or 2,300 covering a small area. Therefore, you have already the mental stress of knowing that you do not have immediate backup.

The State Police is . . . the backup force. He is the one that is called on in riots, or he is the one that is called on when you have a problem as you did at Walpole or at Norfolk. These are both physically and mentally stressful. It is a State Police officer who is the one that is apt to be out on Route 495 with an accident at 2:00 o'clock in the morning and there is no one around. There is both physical exertion involved here and mental stress." (App. 143-4; see also App. 57).

In this regard, plaintiff's counsel asked Colonel Murphy whether the requirement for physical strength on the part of a member of the Uniformed Branch was greater than that of a member of the Boston Police Department. Colonel Murphy answered "Yes . . . because he usually is working alone; he does not have assistance" (App. 147).

State Police detectives, as their title implies, perform quite different and less arduous functions than those of the Uniformed Branch. State Police detectives do not perform road patrol, do not restore and maintain order in prison and civil disorders, do not respond to emergencies and natural disasters, do not contain disorderly assemblies, and do not perform undercover, beard or disguise work. Members of the Uniformed Branch perform all of these duties. Detectives perform no command function, drive in unmarked cars, wear civilian clothes, and are regularly scheduled to work a day shift, Monday through Friday, with Saturday and Sunday as regular days-off weekly (App. 54-56). Unlike the detectives, members of the Uniformed Branch perform command functions, patrol highways in marked cruisers, wear uniforms, and are regularly scheduled to work three general work shifts, each of which is divided into three sub-shifts, providing 24 hour coverage. Additionally, members of the Uniformed Branch generally work a rotating four days on, two days off schedule, which does not provide the stability of the same regular days-off weekly, let alone regular Saturdays and Sundays off weekly which the detectives enjoy. (App. 56).

The State Police Surgeon, Colonel Murphy, also testified that the duties of members of the Uniformed Branch are more stressful than those of the detectives (App. 168-9). This is clearly evident by comparing disability statistics for each group. During the period November, 1967 - December, 1973, no detective retired for a service-connected disability (App. 56). During the same period of time, many members of the Uniformed Branch retired for disability (see 376 F.Supp. at 756).

C. Medical evidence supports the rationality of requiring Uniformed State Police to retire at age 50.

Medical evidence introduced by both plaintiff and the defendants supports the rationality of the challenged statute. Plaintiff's experts conceded, as noted by the district court, that "there is a general relationship between advancing age and decreasing physical ability to respond to the demands of the job". 376 F.Supp. at 755.

The State Police Surgeon, Colonel Murphy, testified that the incidence of hypertension among Trooper members of the Uniformed Branch between the ages of 40 and 50 is "twice what you would expect in the normal population" (App. 144), that the "higher ranking officer is even more susceptible because he also has the additional problem of responsibility" (App. 186-7), and that the average State Police officer is not physically fit to perform full duty at age 50 (App. 185). His testimony was not rebutted by plaintiff's medical witnesses.[2] In fact, one of plaintiff's witnesses, Dr. Thomas R. Dawber stated:

> ". . . I assume that the rationality of this statute is, that it is assumed that the younger the individual is, the more able he is to respond to the demands of the job, and that as the individual gets older his ability to do this becomes less. I think that is basically true" (App. 84-85).

D. Morale of the Uniformed Branch is increased by requiring retirement at age 50.

The retirement system of the Uniformed Branch of the State Police advances morale within the ranks by increasing opportunities for promotion. Retirement at age 50 opens up superior officer positions sooner than would be

[2] Of the three physicians deposed by the plaintiff, Colonel Murphy was the only medical witness with long-standing, expert knowledge of the duties of members of the Uniformed Branch. In addition, he has day to day experience with the physical and mental stress requirements of the job, and the medical concerns of members of the uniformed Branch (App. 177-8). The doctors whose testimony was offered in behalf of plaintiff had no experience with the Uniformed Branch, or with detectives of the State Police or municipal police officers for that matter. They were supplied copies of the Rules and Regulations of the Uniformed Branch by the plaintiff just prior to the taking of their depositions. (App. 70-1). Reading the Rules and Regulations is no substitute for Colonel Murphy's knowledge of and work with the Uniformed Branch.

the case with a later retirement age. Thus, retirement of a Lieutenant Colonel at age 50 creates openings in the ranks of Major, Captain, Lieutenant, Staff Sergeant, Sergeant and Corporal and permits all members to advance more rapidly to "higher levels of command."

This is similar to the "up or out" advancement policy of the Navy which this Court, in *Schlesinger,* recognized as valid. There, this Court stated:

> "[T]he operation of the statutes in question results in a flow of promotion commensurate with the Navy's current needs and serves to motivate qualified commissioned officers to so conduct themselves that they may realistically look forward to higher levels of command". 43 U.S.L.W. at 4162.

II. THE ESTABLISHMENT OF 50 YEARS OF AGE AS THE CUT-OFF MARK IS A RATIONAL MEANS TO ACHIEVE THE LEGISLATIVE PURPOSE AND WAS NOT ESTABLISHED MERELY FOR ADMINISTRATIVE CONVENIENCE.

All retirement systems choose a cut-off date. Whether it is 50 years of age for Uniformed Massachusetts State Police, 55 years of age for F.B.I. agents, or 60 years of age for airline pilots, all cut-off dates for retirement systems draw a line which may exclude individuals who are qualified. See *Weiss* v. *Walsh,* 324 F.S. 75, 77 (D.N.Y. 1971), *aff'd* 461 F.2d 846 (2d Cir. 1972), *cert. denied* 410 U.S. 970 (1973). The district court accepted the fact that there must be an "arbitrary" cut-off date, but ruled that age 50 is illegal because there was no "readily discernible breaking, or turning point". 376 F.Supp. at 755. The district court, in effect, ruled that there must be individual testing rather

than a fixed cut-off at age 50. Its decision was incorrect because the medical evidence, in light of the function and purpose of the Uniformed Branch, supported a cut-off age of 50.

Testimony of Colonel Murphy, the State Police Surgeon, was that age 50 is a "critical area." He also stated that in his opinion the average State Police officer, at age 50, is *not* physically fit to perform the full duties required of members of the Uniformed Branch (App. 185). In addition, Colonel Murphy testified that there is an increased incidence of heart disease between age 40 and 50, that the rate of aging progresses more rapidly from age 40 on, and that there is no medical examination which can adequately predict whether an individual over 50 is sufficiently healthy to permit him to perform the duties of a State Trooper (App. 173-4).

Although plaintiff's experts disagreed with the age 50 retirement, their testimony tended to corroborate Colonel Murphy's opinion. As example, Dr. Thomas R. Dawber agreed that the activities of the State Police cause an increased possibility of heart attack which becomes more significant as an individual grows older (App. 87). Although Dr. Dawber disagreed with retirement at age 50, he testified that there is an increasing rate of disability as one approaches the middle 50's and older (App. 87).

The medical evidence established that age 50 is a "critical area" in which individual medical testing is inadequate to maintain a State Police force capable of performing its duties. The statement of the district court that "no expert testif(ied) to any significance in age 50 in a group which . . . had individually passed annual tests during the preceeding decade," 376 F. Supp. at 756, is incorrect. Colonel Murphy so testified (App. 173-4).

Although Massachusetts appears to be the only state requiring retirement of State Police officers before age 55,[3] it is impossible to declare the challenged statute unconstitutional without affecting all mandatory retirement statutes. If, arguendo, the medical evidence in this case is insufficient to justify an age 50 retirement, it could be contended by the plaintiff that it would not justify retirement of members of the Uniformed State Police at age 55 or 60. In addition, compulsory retirement of administrative, clerical or professional personnel could similarly lack justification even at age 65, or 70 for that matter. See *Weisbrod* v. *Lynn*, 383 F. Supp. 933 (D.D.C. 1974), *aff'd*, 43 U.S.L.W. 3461 (U.S. Feb. 25, 1975). Therefore, an opinion of this Court affirming the district court decision would drastically affect all mandatory retirement systems in the country.

III. RETIREMENT OF UNIFORMED STATE POLICE AT AGE 50 IS NOT UNDULY BURDENSOME BECAUSE ACCELERATED PENSION BENEFITS COMPENSATE FOR SUCH RETIREMENT.

Uniformed State Police officers are entitled to retire with greater pension benefits after 20 years of service or at age 50 than are detectives or municipal police officers.

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[3] Plaintiff in his Motion to Affirm the decision of the district court, noted that there is pending in the Massachusetts legislature a proposed amendment (H. 2167) to the challenged statute which, if enacted, would raise the retirement age to 55 (App. A to Appellee's Motion to Affirm). As of July 11, 1975, the Massachusetts legislature had taken no action on this proposed amendment.

In 1939, Chapter 22, Section 9(a) of the Massachusetts General Laws was amended to provide that "no person over thirty years of age shall be enlisted for the first time as an officer of the division of State Police". In 1939, the statutory Uniformed Branch twenty year-50 percent retirement pension was enacted into law (Chap. 503, Acts of 1939). Thus the plaintiff, who was appointed on April 7, 1948, could have voluntarily retired on April 7, 1968, after 20 years of service, with a pension equal to fifty (50) percent of his then *single* highest year's pay. Since April 7, 1968, his pension incremented by one percent annually, until retirement. Mass. Gen. Laws, ch. 32, Sec. (3) (c).

The twenty year-50 percent minimum pension for members of the Uniformed Branch is a "service" pension, so-called, that is, one computed solely on the basis of years of service. As example, a member of the Uniformed Branch who enlists at age 21 receives, after 20 years of service, the same 50 percent pension to which a member who enlists at age 29 and serves 20 years, is also entitled. To our knowledge, members of the Uniformed Branch are the only state or municipal employees entitled to receive a pension so computed.

Contrariwise, the statutory pension system for municipal police officers and State Police detectives is an "age" pension, so-called; the older the employee, the higher the rate of his pension. Mass. Gen. Laws, ch. 32, Section 5 (2) (a); Section 10 (1).[4] A municipal police officer or State Police

[4] Municipal police and State Police detectives are classified in Group 4. The following table shows the percentage of the amount of average annual rate of regular compensation to be multiplied by the number of years of creditable service in determining pensions of municipal police or State Police detectives.

detective who enlisted at age 21 and served 20 years would be entitled to only a 2% pension;[5] if he enlisted at age 25 and served 20 years, he would be entitled to a 30% pension, and if he enlisted at age 30 and served 20 years, he would be entitled to a 40% pension, in each instance, based on his average annual rate of pay received during a *three* (3) year period. Mass. Gen. Laws, ch. 32, sec. 5 (2) (a).

The foregoing analysis of pension benefits for municipal police officers and State Police detectives is based upon recently liberalized retirement allowance provisions of the Massachusetts pension system (Chap. 826, Acts of 1967 — municipal police; Chap. 992, Acts of 1971 — State Police detectives). At the time of plaintiff's enlistment in the Uniformed Branch, pension benefits for such municipal officers and detectives were financially less rewarding than those provided by this recent legislation, and such liberalized pension benefits still do not provide them the 20 year-50 percent "service" pension to which members of the Uniformed Branch are entitled. Thus, the twenty year-50

	Age Last Birthday at Date of Retirement		
Percent	*Group 1*	*Group 2*	*Group 4*
2.5	65 or over	60 or over	55 or over
2.4	64	59	54
2.3	63	58	53
2.2	62	57	52
2.1	61	56	51
2.0	60	55	50
1.9	59	—	49
1.8	58	—	48
1.7	57	—	47
1.6	56	—	46
1.5	55	—	45

[5] Pursuant to Mass. Gen. Laws, ch. 32, sec. 10 (1), if such municipal police officer or detective retired after 20 years of service, let us say at age 41, the per cent to be used in computing his allowance is reduced by one-tenth of one percent for each year his age is under 45, based on a Group 1 allowence. At age 45, the Group 1 percent is .5.

percent, *single* highest year's pay pension for members of the Uniformed Branch, unlike the pension entitlement of municipal police officers and State Police detectives age 50 or younger, or with 20 or less years of service, provided then, as it does now, substantially greater economic benefits upon retirement to Uniformed Branch members. These pension benefits were part of the career compensation plaintiff opted for on enlistment in the Uniformed Branch, and are full and valid compensation for a career in said Branch which mandates retirement at age 50 or after twenty years of service, whichever last occurs. Without more, such pension benefits justify the statutory classification here challenged by plaintiff. Moreover, this entitlement to a 50 percent pension (at a minimum) was part and parcel of a legislative determination that members of the Uniformed Branch be retired at age 50 in order to assure a young, vigorous State Police force.

IV. THIS COURT HAS PREVIOUSLY HELD VALID A STATE POLICE COMPULSORY RETIREMENT SYSTEM. *McILVAINE* v. *PENNSYLVANIA*, 415 U.S. 986 (1974).

An appeal to this Court of the decision of the Pennsylvania Supreme Court, upholding compulsory retirement of Pennsylvania State Police at age 60, or after 20 years of service, whichever last occurs, was dismissed for want of a substantial federal question. *McIlvaine* v. *Pennsylvania*, 454 Pa. 129, 309 A.2d 801 (1973) *appeal dismissed*, 415 U.S. 986 (1974). The effect of this dismissal is a binding decision on the merits. *Ohio ex rel. Eaton* v. *Price*, 360 U.S. 246, 247 (1959); See Stern and Gessman, *Supreme Court Practices* 197 (4th ed. 1969); Hart and Wechsler, *The Federal Courts and the Federal System* 573-6 (1953); Robertson and Kirkham, *Jurisdiction of the Supreme Court of the United States* Sec. 58. In *Weisbrod* v. *Lynn*, *supra*, a three judge district court upheld the constitutionality of the federal mandatory retirement statute, 5 U.S.C. 8335, citing this Court's decision in *McIlvaine*.

V. THE CHALLENGED STATUTE DOES NOT CREATE AN IRREBUTTABLE PRESUMPTION VIOLATIVE OF DUE PROCESS.

The challenged statute does not create an irrebuttable presumption such as that struck down by this Court in *Cleveland Board of Education* v. *LaFleur*, 414 U.S. 632 (1974). In *LaFleur*, this Court ruled that maternity leave regulations which required pregnant teachers to be discharged in their fifth or sixth month of pregnancy created an irrebuttable and illegal presumption of unfitness to teach. This Court based its decision on the fact that pregnancy involves a fundamental right to be free from governmental intrusion into matters so "fundamentally affecting a person as the decision whether to bear or beget a child". There is no such fundamental right in this case.

Also, in *LaFleur*, this Court stated that there was no medical evidence in the record to support the regulation requiring discharge of teachers in the fifth or sixth months of pregnancy, 414 U.S. at fn. 13. In this case, medical and other evidence relative to the challenged statute is in the record. For example, the State Police Surgeon, Colonel Murphy, testified that the incidence of hypertension among Trooper members of the Uniformed Branch between the ages of 40 and 50 is "twice what you would expect in the normal population" (App. 144), that the "higher ranking officer is even more susceptible because he also has the

additional problem of responsibility" (App. 186-7), and that the average State Police officer is not physically fit to perform full duty at age 50 (App. 185).

In addition, this case, unlike that of *LaFleur*, is not one in which the "interest of administrative convenience" has been argued as justification for the challenged statute. Defendants have proved, unlike the school board in *LaFleur*, a reasonable justification for the statute. The challenged statute does serve a "legitimate state interest", and is neither arbitrary, irrational or unfair.

CONCLUSION

For the foregoing reasons, the decision of the district court should be reversed.

Respectfully submitted,

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